IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 1124 of 2007 (O&M)

DATE OF DECISION : 17.04.2007

Surjit Singh

.... APPELLANT

Versus

Gurdwara Kikkarsar Sahib and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Binderjit Singh, Advocate,
for the appellant.

Defendant No.1 Surjit Singh has filed this Regular Second Appeal against the judgments and decree passed by both the courts below, whereby suit of the plaintiff-Gurdwara for declaring it as owner in possession of the suit property has been partly decreed.

Undisputedly, the suit property was owned by Gurdeep Singh, real brother of the appellant. The plaintiff Gurdwara claimed ownership of the suit property on the basis of a trust deed dated 20.7.1994 and a Will dated 17.1.1999, executed by aforesaid Gurdeep Singh. The appellant contested the suit on the ground that the alleged trust deed as well as the Will are forged and fabricated documents, as the same were never executed by his brother Gurdeep Singh. It was pleaded that the appellant and his sister inherited the disputed property on the basis of natural inheritance. Thus, mutation No. 15545 was rightly sanctioned in their favour.

The trial court, after considering the evidence led by both the parties, came to the conclusion that the trust deed Ex.P2 has been duly proved by the plaintiff Gurdwara in accordance with the provisions of Indian Evidence Act. Regarding Will Ex.P1, it was found that the same is surrounded by suspicious circumstances. On the basis of these findings, suit

of the plaintiff Gurdwara regarding part of the property i.e. 6 Kanals 3 Marlas, which was the subject matter of the trust deed Ex.P2, was decreed and the suit regarding the remaining land was dismissed. The appellate court has affirmed the judgment and decree, passed by the trial court.

I have heard counsel for the appellant and perused the impugned judgments and decree, passed by both the courts below.

Counsel for the appellant submits that the trust deed Ex.P2 was never acted upon, as the same was never incorporated either in the revenue record or in any other official record. The alleged trust deed has not done any thing to achieve the object of the trust. He further submits that both the courts below have erred in law as well as facts while holding the disputed trust deed as a genuine document. Counsel contends that there is no evidence on the record to show that the alleged trust had actually functioned. Therefore, according to the learned counsel, the creation of the alleged trust has not been proved in accordance with law.

After hearing the arguments of counsel for the appellant and going through the impugned judgments, I do not find any substance in the submissions made by counsel for the appellant.

The plaintiff Gurdwara has duly proved the execution of the trust deed Ex.P2 by examining PW.3 Gurmail Singh and PW.4 Jagdish Chander Sharma, its attesting witness and scribe, respectively. The trust deed was duly registered. The appellant did not lead any evidence to establish that the trust deed was a forged and fabricated document. Merely because all the trustees are not from the village, where the land is situated, it cannot be said that the trust deed is a forged and fabricated document. In this case, the trustee Gurdeep Singh remained alive for about six years. He never revoked the trust created by him. It has been argued that there is no beneficiary under the trust, but it has been held by both the courts below that the fund of the trust is to be used for the object mentioned in clause 5 of the trust deed. It has been stated by the witnesses examined by the plaintiff Gurdwara that the trust property is being used for the purpose, for which it

was created. In view of the fact that Gurdeep Singh created a valid trust regarding his 6 Kanals 3 Marlas of land, I do not find any ground to interfere in the impugned judgments and decree, passed by both the courts below in favour of the plaintiff Gurdwara regarding this land, on the basis of the aforesaid trust deed Ex.P2. No substantial question of law has been either raised or is involved in the appeal.

Dismissed.

April 17, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**